

**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY, JULY 1, 2009
DE CHAMPLAIN CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON SEPTEMBER 2
MEETING MINUTES**

Present: Paul Knowlton, Robert Hand, Rick Doughty, Steve Leach and Lori Metayer

Staff: Dawn Kinney and Alan Leo

AAG: Lara Nomani, AAG

1. **Call To Order:** The meeting was called to order at 9:20 a.m.
2. **Business:** The Committee reviewed case #09-10 and held informal conferences on cases # 08-28, #09-07, #09-12 and #09-13 and made the recommendations which are outlined below:
3. **Application:** There were no new applications reviewed.
4. **Other:** None
5. **Next Meeting:** The next meeting is scheduled for Wednesday August 5, 2009 at 9:00 a.m.
6. **Adjourn:** The meeting was adjourned at 2:30 p.m.

COMPLAINT/INVESTIGATIONS CASE:

1. CASE #09-10; Licensee not Present

The committee tabled case #09-10 until the August 5, 2009 meeting.

INFORMAL CONFERENCES:

1. CASE # 08-28; Licensee Present

The committee entered executive session for the purpose of reviewing investigation and discussing case # 08-28. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 08-28. (Doughty; Leach – motion carries). The committee entered executive session at 09:25 a.m. and exited at 10:05 a.m. During executive session, the committee met with Licensee, and the service attorney, and discussed options for disposition of case # 08-28.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board dismiss this case upon a finding that the complaint is factually unfounded, as the committee found no facts that the Licensee is in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(24) - Acting negligently or neglectfully in conducting an ambulance service.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- None

RECOMMENDED ACTION:

- 1) **That this case be dismissed.**

The Committee will consider case # 08-28 resolved and closed upon the ratification by the Board. (Metayer; Knowlton - 4 in favor, 1 opposed - motion carries).

2. CASE # 09-07; Licensee appeared without counsel. Licensee was asked by AAG Nomani if he was represented by an attorney and advised that he could reschedule the informal conference if he wanted to have an attorney present. The Licensee responded that he had consulted with an attorney prior to this date but was not represented by counsel on this matter and wanted to proceed without counsel.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-07. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 09-07. (Leach; Hand – motion carries). The committee entered executive session at 11:00 a.m. and exited at 11:20 a.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 09-07.

Case Summary and Rules Violation: After discussion, Leach moved to recommend that the Board find that Licensee is in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(13) – Engaging in conduct prohibited by law, other than conduct that falls within the following categories and is not related to the practice: minor traffic violation; minor civil violations; and conduct that could be charged as Class E crimes under Maine law. Specifically, the Licensee disclosed a conviction for assault in October 23, 2007.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- This was an isolated incident;
- Licensee was immediately remorseful and accepted responsibility for his conduct;
- Licensee completed court ordered counseling;
- Licensee was forthright with the committee; and
- Licensee submitted several recommendations from the victim and co-workers.

RECOMMENDED ACTION:

That this case be resolved with a 4 year non-disciplinary Consent Agreement, subject to the following condition:

1). Licensee will report to Maine EMS any of the following: any criminal charges filed against Licensee in any State or Federal court within 10 days of charges being docketed and the issuance of any Protection from Abuse Order that may be issued against him. If criminal charges are filed against Licensee in any State or Federal court or a Protection From Abuse order is issued, Licensee will immediately surrender any license issued by Maine EMS pending resolution of any EMS investigation into the conduct unless Licensee can show good cause as to why the license should continue pending the investigation.

The Committee will consider case #09-07 resolved and closed upon the ratification by the Board of the Consent Agreement. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Leach; Hand - motion carries).

3. CASE # 09-12; Licensee Present *

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-12. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 09-12. (Leach; Knowlton – motion carries). The committee entered executive session at 12:50 p.m. and exited at 1:10 p.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 09-12.

Case Summary and Rules Violation: After discussion, Leach moved to recommend that the Board find that the Licensee's license expired on February 28, 2009 and that the Licensee continued to respond and provide emergency medical treatment, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11 §(1)(30) - Providing treatment at a level for which a person is not licensed or for which a service is not licensed or permitted. Specifically, the Licensee continued to respond to one call and provide patient care.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Licensee received a Massachusetts and Maine license from the same course. Because the Massachusetts license expired in March 2009, the Licensee assumed his Maine license would expire at the same time;
- This was the first renewal for this license;
- Licensee self reported the violation;
- The violation would not have been detected by Maine EMS but for Licensee's self report;
- Licensee was licensable at the time of the incident;
- Licensee was remorseful and accepted responsibility;
- Licensee was honest and forthright with the committee;
- There was no known compromise of patient care; and
- Licensee had no history of prior disciplinary action.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following condition:

- 1) A reprimand.

The Committee will consider case # 09-12 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Leach; Meteyer - motion carries).

4. CASE # 09-13. Licensee not present. Committee waited an additional 10 minutes for Licensee to appear.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-13. Motion: To enter executive session pursuant to 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and discussing matters which are confidential by statute (Doughty; Knowlton – motion carries). The committee entered executive session at 2:10 p.m. and executed at 2:20 p.m. During executive session, the committee reviewed the status of the investigation and discussed options for disposition of case # 09-13.

Case Summary and Rules Violation: After discussion, Leach moved to recommend that the Board find that the Service allowed an unlicensed provider to respond on its behalf, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(34) - Aiding the practice of emergency medical treatment by a person not duly licensed under 32 M.R.S.A., Chapter 2-B. Specifically, the service allowed an unlicensed provider to respond on its behalf on one call. Licensee was notified that this case would be presented at this meeting.

Aggravating Circumstances:

- The violation was not self reported;
- Licensee did not have a policy in place to prevent this from happening; and
- Licensee did not provide a corrective policy as requested.

Mitigating Circumstances:

- None

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following conditions:

- 1) A reprimand;
- 2) The service shall develop and submit to Maine EMS a policy to prevent unlicensed providers from responding on the service's behalf;
- 3) The Licensee shall pay a fine of \$100.00 per violation for a total of \$100.00; and
- 4) The policy and fine will be due at the time of execution of the Consent Agreement.

The Committee will consider case # 09-13 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed

action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Leach; Hand - motion carries).

Respectfully submitted,

Dawn Kinney, EMT-P
Licensing Agent

* See Maine EMS Board minutes dated September 2, 2009